HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1029 (S/S) of 2005

Sunder Lal Nautiyal S/o Sri Chandramani Nautiyal,
R/o 13A, Shanti Vihar, Govindgarh, Dehradun,
District Dehradun. ..... Petitioner.

Vs.

1.State of Uttaranchal through Secretary Education,
Civil Secretariat, Uttaranchal,
Dehradun,
2.Addl. Director of Education,
Garhwal Division, Pauri Garhwal,
3. Principal, G.I.C., Kishanpur, ...Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Rajendra Dobhal, learned counsel for the petitioner and learned Standing Counsel for respondents.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of certiorari for quashing of the transfer order dated 29.06.2005 passed by Addl. Director of Education, Garhwal Division, Pauri Garhwal/respondent no. 2 (annexure no. 4 to the writ petition), by which the petitioner has been transferred from Govt. Inter College Kishanpur, Dehradun to Govt. Inter College, Thela Nailchami, District Tehri Garhwal treating him to be a teacher of inconsistent subject.

Submission of the petitioner is that vide order dated 12.10.1990 he was appointed and posted as L.T. Grade Teacher (General) in Govt. Inter College, Tyuni, District Dehradun and in pursuance of that order he joined at Tyuni on 29.10.1990. Vide order dated 15.06.2002, the petitioner was transferred

from Govt. Inter College, Tyuni, district Dehradun to Govt. Inter College, Kishanpur, district Dehradun. This order indicates that the petitioner was transferred to Govt. Inter College, Kishanpur, District Dehradun against a vacant post on his personal request.

Learned counsel for the petitioner has submitted that the transfer order dated 15.06.2002 and 29.06.2005 are contrary to the extent that vide order dated 15.06.2002 he has been transferred against a vacant post but vide order dated 29.06.2005 he has been transferred treating him to be a teacher of inconsistent subject. If the transfer order dated 15.06.2002 was against a clear vacancy and that too on the personal request of the petitioner, there was no occasion to transfer the petitioner again: treating him to be a teacher of inconsistent subject.

Counsel for the petitioner has further submitted that the petitioner has served in the remote area (Durgam Kshetra) for more than 12 years and after serving for three years at Kishanpur, district Dehradun he has again been transferred to remote area of district Tehri Garhwal. The petitioner has passed his graduation degree with Political Science, Sociology and Sanskrit and at present teaching Sanskrit to the students of Class VI & VIII and is also teaching Social studies to the students of Classes IX and X of the Institution. He was transferred to Kishanpur, district Dehardun against a clear vacancy and, as such, while transferring the petitioner to Thela Nailchami, the respondents have wrongly treated him as a teacher in inconsistent subject.

Counsel for the petitioner has further submitted that the posts of L.T. Grade Teachers in general category are vacant at Govt. Higher Secondary School, Vani Vihar, Dehradun. If, at all, he had to be transferred, he could have adjusted in the above

mentioned school or any other nearby school where the posts are vacant.

The petitioner has already moved representation to the Add. Director of Education, Garhwal Mandal, Pauri on 10th July 2005, which is annexure no. 7 to the writ petition. In these circumstances it is expedient in the interest of justice that the respondents be directed to decide the representation of the petitioner at an earliest.

Accordingly, I direct the Addl. Director of Education, Garhwal Mandal, Pauri to decide the representation of the petitioner dated 10th July 2005 (annexure no. 7 to the writ petition) within a period of three weeks from today. Till the Addl. Director of Education, Garhwal Mandal, Pauri takes decision on the representation of the petitioner, the petitioner shall not be relieved, if he has yet not been relieved.

The petitioner is directed to submit a certified copy of this order to the Addl. Director of Education, Garhwal Mandal, Pauri by 1st of August 2005.

The writ petition is disposed of accordingly.

(M.M. Ghildiyal, J.)

July 26, 2005:

NCM: